

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1169*

Short Title: Concealed Weapon Permit.

(Public)

Sponsors: Representatives Joye; Berry, Brawley, Flaherty, Grady, C. Preston, J. Preston, and Stewart.

Referred to: Judiciary II.

April 19, 1993

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW PERSONS TO OBTAIN A PERMIT TO CARRY A
2 CONCEALED WEAPON AFTER MEETING CERTAIN QUALIFICATIONS, TO
3 CREATE CERTAIN MISDEMEANOR OFFENSES RELATED TO CONCEALED
4 WEAPONS PERMITS, AND TO INCREASE THE PUNISHMENT FOR THE
5 CURRENT OFFENSE OF CARRYING CONCEALED WEAPONS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 14 of the General Statutes is amended by adding the
9 following new section to read:

10 "**§ 14-269.5. Permit to carry concealed weapon.**

11 (a) Definition. For purposes of this section, 'concealed weapon' means a
12 handgun.

13 (b) Issuance of Permit. The sheriff may issue a permit to carry a concealed
14 weapon to persons qualified as provided in subsection (c) of this section. The sheriff
15 shall act on the request for a permit within 30 days unless the person desires weapon
16 training. The permit shall be valid throughout the State for a period of two years from
17 the date of issuance. The permittee shall carry the permit and valid identification at all
18 times in which the permittee is in actual possession of a concealed weapon and shall
19 display the permit and valid identification upon demand by a law enforcement officer.

20 (c) Qualifications. The sheriff shall determine whether or not a person is
21 qualified to carry a concealed weapon. To be qualified to carry a concealed weapon, a
22 person shall meet all of the following requirements:

23 (1) Be at least 21 years of age.

- 1 (2) Has been a resident of the State for at least 90 days.
- 2 (3) Does not have a prior commitment to a mental institution.
- 3 (4) Is not prohibited by law from receiving, possessing, or transporting
4 any weapon.
- 5 (5) Demonstrates proficiency in the use of the weapon or the sheriff
6 determines that the person has sufficient training and experience to
7 demonstrate proficiency.
- 8 (6) Has not been indicted for or convicted of a felony and does not have
9 proceedings pending for or a conviction of a forcible misdemeanor.
- 10 (7) Has not been convicted of an offense involving impaired driving as
11 defined under G.S. 20-4.01(24a).

12 The sheriff may conduct any investigation necessary to determine the qualifications or
13 competency of the person desiring the permit, including fingerprints and record checks.

14 (d) Weapon Training. If an applicant cannot successfully demonstrate
15 proficiency in the use of a weapon or if an applicant desires training before
16 demonstrating proficiency, the sheriff's department shall provide weapon training. The
17 training shall include instruction in the use of the weapon, safety techniques, and the
18 legal responsibilities related to the carrying and use of weapons.

19 (e) Appeal from Denial of Permit. A person may appeal the denial of a permit to
20 carry a concealed weapon by filing a petition to the chief judge of the district court for
21 the district in which the request was made. The determination by the judge shall be
22 final.

23 (f) Renewal. A person may renew the permit to carry a concealed weapon every
24 two years if the person remains qualified under this section.

25 (g) Fees. A fee of twenty-five dollars (\$25.00) shall be paid to obtain a permit to
26 carry a concealed weapon. A fee of fifteen dollars (\$15.00) shall be paid to renew the
27 permit. A fee of fifty dollars (\$50.00) shall be paid for weapon training. All fees under
28 this subsection shall be paid to and retained by the sheriff's department.

29 (h) Revocation. A permit issued under this section shall be revoked if the
30 permittee:

- 31 (1) Becomes ineligible under the criteria set forth in subsection (c) of this
32 section.
- 33 (2) Develops or sustains a physical infirmity which prevents the safe
34 handling of a weapon or firearm.
- 35 (3) Is convicted of a felony which would make the permittee ineligible to
36 possess a firearm.
- 37 (4) Is found guilty of a crime relating to controlled substances.
- 38 (5) Is committed as an alcoholic or controlled substances abuser.
- 39 (6) Is adjudicated an incompetent person.
- 40 (7) Is committed to a mental institution.

41 (i) Offenses. A person who commits any of the following shall be guilty of a
42 general misdemeanor and punished as provided under G.S. 14-3:

- 43 (1) Gives false information to obtain a concealed weapon permit under
44 this section.

- 1 (2) Possesses and uses a concealed weapon permit which has been
 2 revoked.
- 3 (3) Fails to have in his possession a valid permit whenever actually
 4 carrying a concealed weapon granted under authority of this section.
- 5 (4) Intentionally alters or counterfeits a concealed weapon permit.
- 6 (5) Sells, gives, or transfers to another person a concealed weapon permit.
- 7 (j) Construction. This section shall not be construed to require a person who may
 8 carry a concealed weapon under the provisions of G.S. 14-269(b) to obtain a concealed
 9 weapon permit. This section shall not be construed to affect the right of a person to
 10 carry a concealed weapon under the authority of other statutes and case law. This
 11 section shall not be construed to allow a person who has a concealed weapon permit to
 12 carry or possess a concealed weapon in the areas prohibited by G.S. 14-269.2, 14-269.3,
 13 14-269.4, 14-277.2, or any areas prohibited by cities and counties."

14 Sec. 2. G.S. 14-269 reads as rewritten:

15 **"§ 14-269. Carrying concealed weapons.**

16 (a) ~~It~~ Except as provided in G.S. 269.5, it shall be unlawful for any person,
 17 except when on his own premises, willfully and intentionally to carry concealed about
 18 his person any bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles,
 19 razor, shurikin, stun gun, pistol, gun or other deadly weapon of like kind. This section
 20 does not apply to an ordinary pocket knife carried in a closed position. As used in this
 21 section, 'ordinary pocket knife' means a small knife, designed for carrying in a pocket or
 22 purse, which has its cutting edge and point entirely enclosed by its handle, and that may
 23 not be opened by a throwing, explosive or spring action.

24 (b) This prohibition shall not apply to the following persons:

- 25 (1) Officers and enlisted personnel of the armed forces of the United
 26 States when in discharge of their official duties as such and acting
 27 under orders requiring them to carry arms and weapons;
- 28 (2) Civil officers of the United States while in the discharge of their
 29 official duties;
- 30 (3) Officers and soldiers of the militia and the national guard when called
 31 into actual service;
- 32 (4) Officers of the State, or of any county, city, or town, charged with the
 33 execution of the laws of the State, when acting in the discharge of their
 34 official duties;
- 35 (5) Full-time sworn law-enforcement officers, when off-duty, in the
 36 jurisdiction where they are assigned, if:
- 37 a. Written regulations authorizing the carrying of concealed
 38 weapons have been filed with the clerk of superior court in the
 39 county where the law-enforcement unit is located by the sheriff
 40 or chief of police or other superior officer in charge; and
- 41 b. Such regulations specifically prohibit the carrying of concealed
 42 weapons while the officer is consuming or under the influence
 43 of alcoholic beverages.

44 (b1) It is a defense to a prosecution under this section that:

- 1 (1) The weapon was not a firearm;
- 2 (2) The defendant was engaged in, or on the way to or from, an activity in
- 3 which he legitimately used the weapon;
- 4 (3) The defendant possessed the weapon for that legitimate use; and
- 5 (4) The defendant did not use or attempt to use the weapon for an illegal
- 6 purpose.

7 The burden of proving this defense is on the defendant.

8 (c) Any person violating the provisions of this section shall be guilty of a
9 misdemeanor, and shall be punished by a fine not to exceed ~~five hundred dollars~~
10 ~~(\$500.00)~~, one thousand dollars (\$1000), imprisonment for not more than ~~six months,~~
11 two years, or both."

12 Sec. 3. G.S. 14-404 reads as rewritten:

13 "**§ 14-404. Issuance or refusal of permit; appeal from refusal; grounds for refusal;**
14 **sheriff's fee.**

15 Upon application, the sheriff shall issue such license or permit to a resident of that
16 county unless the purpose of the permit is for collecting, in which case a sheriff can
17 issue a permit to a nonresident when the sheriff shall have fully satisfied himself by
18 affidavits, oral evidence, or otherwise, as to the good moral character of the applicant
19 therefor, and that such person, firm, or corporation desires the possession of the weapon
20 mentioned for (i) the protection of the home, business, person, family or property,
21 (ii) target shooting, (iii) collecting, or (iv) hunting. The person shall demonstrate
22 proficiency in the use of a weapon or the sheriff shall determine that the person has had
23 sufficient training and experience to demonstrate competence. Weapon training may be
24 provided by the sheriff if a person cannot successfully demonstrate proficiency or if a
25 person desires training before demonstrating proficiency. If said sheriff shall not be so
26 fully satisfied, he may, for good cause shown, decline to issue said license or permit and
27 shall provide to said applicant within seven days of such refusal a written statement of
28 the reason(s) for such refusal. An appeal from such refusal shall lie by way of petition to
29 the chief judge of the district court for the district in which the application was filed.
30 The determination by the court, on appeal, shall be upon the facts, the law, and the
31 reasonableness of the sheriff's refusal, and shall be final. A permit may not be issued to
32 the following persons: (i) one who is under an indictment or information for or has been
33 convicted in any state, or in any court of the United States, of a felony (other than an
34 offense pertaining to antitrust violations, unfair trade practices, or restraints of trade),
35 except that if a person has been convicted and later pardoned or is not prohibited from
36 purchasing a firearm under the Felony Firearms Act (Article 54A of this Chapter), he
37 may obtain a permit; (ii) one who is a fugitive from justice; (iii) one who is an unlawful
38 user of or addicted to marijuana or any depressant, stimulant, or narcotic drug (as
39 defined in 21 U.S.C. section 802); (iv) one who has been adjudicated incompetent on
40 the ground of mental illness or has been committed to any mental institution. Provided,
41 that nothing in this Article shall apply to officers authorized by law to carry firearms if
42 such officers identify themselves to the vendor or donor as being officers authorized by
43 law to carry firearms and state that the purpose for the purchase of the firearms is
44 directly related to the law officers' official duties. The sheriff shall charge for his

1 services upon issuing such license or permit a fee of five dollars (\$5.00). Each applicant
2 for any such license or permit shall be informed by said sheriff within 30 days of the
3 date of such application whether such license or permit will be granted or denied and, if
4 granted, such license or permit shall be immediately issued to said applicant."

5 Sec. 4. This act becomes effective December 1, 1993.